U S BANKRUPTCY COURT
SOUTHERN DISTRICT OF MS
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DANNY L. MILLER
CLERK
BY 2W DEPUTY

UNITED STATES BANKRUPTCY COURT
NORTHERN AND SOUTHERN DISTRICTS OF MISSISSIPPI

STANDING ORDER REGARDING: (A) DISABILITY, IMPAIRMENT, DISBARMENT, OR SUSPENSION OF DEBTOR'S COUNSEL OR (B) DEATH OF DEBTOR'S COUNSEL

The U.S. Bankruptcy Judges of the Northern and Southern Districts of Mississippi have determined that it is necessary and appropriate to establish certain procedures to ensure that the interests of the debtor are protected in a bankruptcy case upon the disability, impairment, disbarment, or suspension (the "incapacity") of the debtor's attorney or upon the death of the debtor's attorney.

A. Incapacity of Debtor's Attorney

Once the Court becomes aware of the possible incapacity of a debtor's attorney, the Court may issue an order to show cause (the "Show-Cause Order") to that attorney. The Show-Cause Order will set a date, time, and place for a hearing (the "Show-Cause Hearing") so that the Court may ascertain what steps are necessary to ensure that the debtor continues to be represented in a manner consistent with applicable rules of professional conduct. *See, e.g.*, MISS. RULES OF PROF'L CONDUCT 1.1 (Competence); 1.3 (Diligence); 1.16 (Declining or Terminating Representation). The appearance of the debtor's attorney at the Show-Cause Hearing will be in his or her individual capacity only and not in a representative capacity as counsel for the debtor. The debtor's attorney, or any counsel representing the debtor's attorney, will be afforded twenty-one (21) days to file a written response to the Show-Cause Order. The Show-Cause Order will be similar to "Form A" attached to this Standing Order. Notice of the Show-Cause Order will be sent to: (1) the debtor, (2) the U.S. Trustee, (3) the case trustee, and (4) any entity that has made a notice of appearance or a formal request for notices in the case.

In a chapter 13 case, if the Court concludes that the attorney of a debtor has become incapacitated, the Court may instruct the case trustee to stop payment of fees to that attorney in all chapter 13 bankruptcy cases filed in this judicial district in which that attorney is the attorney of record for the debtor. The trustee shall hold any amounts for payment of attorney's fees and shall send a letter to the attorney stating that the disposition of such fees will be handled pursuant to the resolution of the Show-Cause Order under the procedures set forth in this Standing Order.

B. Death of Debtor's Attorney

Once the Court becomes aware of the possible death of a debtor's attorney, the Court may issue a Show-Cause Order to a partner or supervising lawyer in the law firm in which the debtor's attorney last practiced or to the personal representative of the attorney, if known. The Show-Cause Order will set a date, time, and place for a hearing so that the Court may ascertain what steps are necessary to ensure that the debtor continues to be represented in a manner consistent with applicable rules of professional conduct. *See, e.g.*, MISS. RULES OF PROF'L CONDUCT 1.1 (Competence); 1.3 (Diligence); 1.16 (Declining or Terminating Representation). The appearance of an attorney at the Show-Cause Hearing will not be in a representative capacity as counsel for the Debtor. Any counsel representing the Debtor's attorney will be afforded twenty-one (21) days to file a written response to the Show-Cause Order. The Show-Cause Order will be similar to "Form B" attached to this Standing Order. Notice of the Show-Cause Order will be sent to: (1) the debtor's attorney at his or her last known address, (2) the debtor, (3) the U.S. Trustee, (4) the case trustee, and (5) any entity that has made a notice of appearance or a formal request for notices in the case.

In a chapter 13 case, upon proof of the attorney's death at the Show-Cause Hearing, the Court may instruct the case trustee to stop payment of fees to that attorney in all chapter 13

bankruptcy cases filed in this judicial district in which that attorney is the attorney of record for the debtor. The trustee shall hold any amounts for payment of attorney's fees and shall send a letter to a partner or supervising lawyer in the law firm in which the debtor's attorney last practiced or to the personal representative of the attorney, if known, stating that the disposition of such fees will be handled pursuant to the resolution of the Show-Cause Order under the procedures set forth in this Standing Order.

SO ORDERED. Effective September 22, 2014.

EDWARD ELLINGTON
UNITED STATES BANKRUPTCY JUDGE

NEIL P. OLACK
UNITED STATES BANKRUPTCY JUDGE

KATHARINE M. SAMSON
UNITED STATES BANKRUPTCY JUDGE

JASON D. WOODARD
UNITED STATES BANKRUPTCY JUDGE

(Form A)

UNITED STATES BANKRUPTCY COURT
_____ DISTRICT OF MISSISSIPPI

IN RE:

_____, **CASE NO.**
__-_____-___

DEBTOR.

CHAPTER
__

ORDER TO SHOW CAUSE

Name of Debtor's Attorney
Address
_____, MS

You are hereby ordered to appear on _____, 2014, at _____ _.m. in the Bankruptcy Courtroom, _____, _____, Mississippi (the "Show-Cause Hearing"), to show cause why the Court should not relieve you as the attorney of record for the debtor, _____ (the "Debtor"), [and why the Court should not instruct the chapter 13 trustee to stop payment of fees to you] in the above-referenced bankruptcy case (the "Case"). The issues that will be addressed at the Show Cause Hearing are whether *vel non*:

1. You have provided competent representation to the Debtor. *See* MISS. RULES OF PROF'L CONDUCT 1.1;

2. You have acted with reasonable diligence and promptness in representing the Debtor. *See* MISS. RULES OF PROF'L CONDUCT 1.3; and

3. Your physical or mental condition has materially impaired your ability to represent the Debtor. *See* MISS. RULES OF PROF'L CONDUCT 1.16.

Your appearance at the Show-Cause Hearing will be in your individual, not representative, capacity.

In addition to imposing relief in this Case, the Court may order the same relief in other bankruptcy cases filed in this judicial district where you are identified as the attorney of record for a debtor. You may file a written response within twenty-one (21) days of this Order to Show Cause. By copy of the Order to Show Cause, notice of the Show-Cause Hearing hereby is given to: (1) the debtor, (2) the U.S. Trustee, (3) the case trustee, and (4) any entity that has made a notice of appearance or a formal request for notices in the Case.

##END OF ORDER##

(Form B)

UNITED STATES BANKRUPTCY COURT
_____ DISTRICT OF MISSISSIPPI

IN RE:

_____, **CASE NO.**
__-_____-___

DEBTOR.

CHAPTER
__

ORDER TO SHOW CAUSE

Name of Partner of Debtor's Attorney or Supervising Lawyer of Debtor's Attorney
Law Firm
Address
_____, MS

or

Personal Representative of Debtor's Attorney
Address
_____, MS

You are hereby ordered to appear on _____, 2014, at _____ _.m. in the Bankruptcy Courtroom, _____, _____, Mississippi (the "Show-Cause Hearing"), to show cause why the Court should not relieve _____, (the "Debtor's Attorney") as the attorney of record for the debtor, _____ (the "Debtor"), [and why the Court

should not instruct the chapter 13 trustee to stop payment of fees to the Debtor's Attorney and your firm] in the above-referenced bankruptcy case (the "Case"). The issue that will be addressed at the Show-Cause Hearing is whether the Debtor continues to be represented competently and diligently in the Case in light of the possible death of the Debtor's attorney. *See* MISS. RULES OF PROF'L CONDUCT 1.1; 1.3; & 1.16. Your appearance at the Show Cause Hearing will not be in any representative capacity on the Debtor's behalf.

In addition to imposing relief in this Case, the Court may order the same relief in other bankruptcy cases filed in this judicial district where the Debtor's Attorney is identified as the attorney of record for a debtor. You may file a written response within twenty-one (21) days of this Order to Show Cause. By copy of the Order to Show Cause, notice of the Show-Cause Hearing is given to: (1) the Debtor's Attorney at his or her last known address, (2) the Debtor, (3) the U.S. Trustee, (4) the case trustee, (5) and any entity that has made a notice of appearance or a formal request for notices in the Case.

##END OF ORDER##